

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:08-cv-00085-BR

L. K., a Minor, by and through his  
surrogate parent, Melissa Henderson,

Plaintiff,

v.

NORTH CAROLINA STATE BOARD OF  
EDUCATION and the NORTH  
CAROLINA DEPARTMENT OF PUBLIC  
INSTRUCTION,

Defendants.

ORDER

This matter is before the court on the 23 June 2010 Memorandum and Recommendation (“M&R”) of Magistrate Judge James E. Gates, regarding (1) defendants’ motion to dismiss for lack of subject matter jurisdiction based on standing and (2) the issue of joinder of the Granville County Board of Education as a defendant. Defendants filed objections to the M&R. The court has reviewed *de novo* those portions and recommendations to which defendants object, and defendants’ objections are **OVERRULED**. The court adopts the M&R as its own, and for the reasons stated therein, it is hereby **ORDERED** that:

1. defendants’ renewed motion to dismiss is **ALLOWED** as to plaintiff’s fourth claim and such claim is **DISMISSED** pursuant to Fed. R. Civ. P. 12(b)(1);
2. defendants’ motion is otherwise **DENIED** without prejudice to any non-jurisdictional contentions included therein;
3. the Granville County Board of Education shall not be joined as a party defendant;
4. the parties shall file any dispositive motions on non-jurisdictional grounds within 14 days

of the date this order is filed;

5. any party filing a motion for summary judgment shall, in the motion, the supporting memorandum, or an attachment thereto, set out the specific undisputed material facts upon which the party relies and provide a specific citation to the administrative record, stipulation, or other source for each such fact and shall not incorporate by reference previous arguments and/or previously filed memoranda; and,
6. the court encourages the parties to stipulate to undisputed facts for the purposes of any dispositive motions that are filed to facilitate proceedings on any such motions.

This 16 August 2010.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt  
Senior U.S. District Judge